

1 DAVID R. ZARO (BAR NO. 124334)  
JOSHUA A. DEL CASTILLO (BAR NO. 239015)  
2 MATTHEW D. PHAM (BAR NO. 287704)  
ALLEN MATKINS LECK GAMBLE  
3 MALLORY & NATSIS LLP  
865 South Figueroa Street, Suite 2800  
4 Los Angeles, California 90017-2543  
Phone: (213) 622-5555  
5 Fax: (213) 620-8816  
E-Mail: dzaro@allenmatkins.com  
6 jdelcastillo@allenmatkins.com  
mphan@allenmatkins.com

7 Attorneys for Receiver  
8 DAVID P. STAPLETON

9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA

11  
12 FEDERAL TRADE COMMISSION, et  
al.,

13 Plaintiffs,

14 vs.

15 GREEN EQUITABLE SOLUTIONS, et  
16 al.,

17 Defendants.

Case No. 2:22-cv-06499-FLA-MAR

**THIRD INTERIM REPORT AND  
PETITION FOR INSTRUCTIONS OF  
RECEIVER, DAVID P. STAPLETON**

Judge Hon. Fernando L. Aenlle-Rocha

18  
19 **TO THIS HONORABLE COURT AND ALL INTERESTED PARTIES:**

20 **PLEASE TAKE NOTICE THAT** David P. Stapleton (the "Receiver"), the  
21 Court-appointed receiver for Defendants Green Equitable Solutions, also dba  
22 Academy Home Services; South West Consulting Enterprises, Inc. also dba  
23 Academy Home Service, Atlantic Pacific Service Group, Golden Home Services of  
24 America Enterprises, and Home Matters USA; Apex Consulting & Associate &  
25 Associates Inc. also dba Golden Home Services America and Home Matters USA  
26 Consulting; Infocom Entertainment Lit., Inc., also dba Amstar Service Group,  
27 Atlantic Pacific Service, and Home Relief Service of America; and their respective  
28 subsidiaries and affiliates (collectively, the "Receivership Entities" or "Entities")

1 hereby submits this Third Interim Report and Petition for Instructions (the  
 2 "Report")<sup>1</sup> in accordance with Local Rule 66-6 and this Court's July 6, 2023 Order  
 3 Granting Petition For Instructions of Receiver David P. Stapleton [ECF No. 212].  
 4 While this Report touches on the efforts undertaken by the Receiver since the  
 5 commencement of his appointment, its focus is the critical tasks undertaken, and  
 6 Assets recovered, by the Receiver and his professionals since the submission of the  
 7 Receiver's March 22, 2023 Second Interim Report and Petition for Instructions (the  
 8 "Second Interim Report") [ECF No. 158].

9 **I. PRELIMINARY STATEMENT.**

10 As reflected in this Court's September 14, 2022 Order Granting Plaintiffs' Ex  
 11 Parte Application For Temporary Restraining Order With Asset Freeze,  
 12 Appointment Of Temporary Receiver, Limited Expedited Discovery, And Order To  
 13 Show Cause Why Preliminary Injunction Should Not Issue (the "Appointment  
 14 Order") [ECF No. 25], as reaffirmed by the Court's September 29, 2022 Order  
 15 Granting Plaintiffs' Request For Preliminary Injunction With Asset Freeze And  
 16 Extending Authorization Of Temporary Receiver Through The Pendency Of The  
 17 Action (the "Preliminary Injunction") [ECF No. 40], the Receiver has been charged  
 18 with, among other things, assuming control over the Receivership Entities and their  
 19 assets ("Receivership Assets" or "Assets"); recovering all available books and  
 20 records relating to or concerning the Entities' business and financial activities;  
 21 performing an analysis of those business and financial activities; and marshaling  
 22 available Receivership Assets for the benefit of the receivership estate (the "Estate")  
 23 and its potential creditors.

24 As the Receiver previously reported, based on his investigation and analysis,  
 25 the Receiver has concluded that: [a] the Receivership Entities' business operations

26 \_\_\_\_\_  
 27 <sup>1</sup> This Report is preliminary and based upon the information presently available to  
 28 the Receiver. Any conclusions presented herein are subject to change as  
 additional information is obtained.

1 were consistent with a fraudulent enterprise; [b] the Entities are not viable as a going  
2 concern; [c] millions of dollars obtained from consumers were fraudulently  
3 transferred to or for the benefit of the Entities' principals or suspected principals,  
4 affiliated entities under their control, or other affiliated persons; and [d] such  
5 fraudulently transferred funds were used to purchase various assets, including, at a  
6 minimum, real properties, against which the Estate has a claim. As detailed below,  
7 the Receiver's document review and analysis and Asset recovery efforts continue,  
8 and, as the newly obtained information is incorporated into his analysis, the  
9 Receiver continues to refine or confirm his conclusions, including as to the  
10 availability of remaining recoverable Assets.

11 As addressed herein, the Receiver's efforts to date have resulting in his  
12 recovery of more than \$2.4 million for the benefit of the Estate and its creditors,  
13 critically including victims of the consumer fraud alleged here. Recently, the  
14 Receiver secured Court authority to market and sell two (2) additional real  
15 properties, which sales are anticipated to result in aggregate recoveries of an  
16 additional \$1 million, approximately. In addition, recently obtained information,  
17 which remains under review at the time of this Report's filing, suggests preliminarily  
18 that the Receiver may have viable fraudulent transfer or similar disgorgement claims  
19 against numerous parties and non-parties who appear to have been the recipients of  
20 at least hundreds of thousands of dollars in fraudulently transferred assets.  
21 Accordingly, and as detailed further herein, the Receiver recommends that this  
22 Court authorize him to continue the performance of his duties as established under  
23 the Appointment Order and Preliminary Injunction, and to submit a Fourth Interim  
24 Report and Petition for Instructions no later than 120 days following the submission  
25 of this Report. While much progress has been made, it appears some significant  
26 work may remain – notably with respect to the completion of pending real property  
27 sales for the benefit of the Estate, the potential pursuit of additional fraudulent  
28 transfer claims, and the administration of an eventual claims process and

1 distribution to consumer victims, or development and turnover of a restitution fund  
2 to the plaintiff regulators.

## 3 **II. GENERAL BACKGROUND.**

4 The Court and all interested parties are invited to review the following  
5 materials for a more detailed summary of the relevant facts underlying the above-  
6 entitled action and the instant receivership:

- 7 • Complaint for Permanent Injunction, Monetary Relief, and Other Relief  
8 (filed on September 12, 2022, ECF No. 1);
- 9 • Appointment Order (entered on September 14, 2022, ECF No. 25);
- 10 • Initial Report and Recommendations of Receiver, David P. Stapleton  
11 (filed on September 26, 2022, ECF No. 36);
- 12 • Preliminary Injunction (entered on September 29, 2022, ECF No. 40);
- 13 • First Amended Complaint for Permanent Injunction, Monetary Relief,  
14 and Other Relief (filed on October 28, 2022, ECF No. 43);
- 15 • Notice of Designation of Non-Party, The Michael R. Nabati Irrevocable  
16 Living Trust dated December 23, 2020, as a Receivership Entity (filed  
17 on November 4, 2022, ECF No. 50);
- 18 • First Interim Report (filed on November 18, 2022, ECF No. 60);
- 19 • Receiver's Notice of Completion of Sale of Real Property Located at  
20 21202 Spurney Lane, Huntington Beach, CA 92646 (filed on  
21 January 31, 2023, ECF No. 132);
- 22 • Second Interim Report (filed on March 22, 2023, ECF No. 158);
- 23 • Order Approving Stipulation for Order: (1) Authorizing Receiver to  
24 Market and Sell Residential Real Properties; and (2) Releasing  
25 Defendant's Claim to Proceeds Recovered or Held by Receiver [Dkt.  
26 195] (entered on June 21, 2023, ECF No. 196); and
- 27 • Order Granting Plaintiffs' Request for Preliminary Injunction With  
28 Asset Freeze and Extending Authorization of Temporary Receiver

1 Through the Pendency of the Action [Dkt. 188] (entered on July 5,  
2 2023, ECF No. 210).

3 As reflected in the above-identified pleadings and orders, the plaintiffs  
4 Federal Trade Commission (the "FTC") and California Department of Financial  
5 Protection and Innovation (collectively with the FTC, the "Regulators") alleged that  
6 the Receivership Entities and their principals engaged in a mortgage modification  
7 scheme whereby distressed mortgage borrowers were fraudulently induced to make  
8 payments to the Receivership Entities in exchange for loan modification services  
9 which were rarely, if ever, provided, and the proceeds from which were diverted by  
10 the Receivership Entities and their principals for their unilateral benefit. On the  
11 basis of their allegations, and on motion to the Court, the Regulators secured the  
12 appointment of the Receiver, who has diligently pursued his objectives as set forth  
13 in the Appointment Order, including with respect to an investigation and analysis of  
14 the business and financial activities of the Receivership Entities, whether such  
15 activities were legitimate or fraudulent, and, if fraudulent, the Entities'  
16 misappropriation of fraudulently obtained funds paid by their victims. The Receiver  
17 has recovered, for the benefit of the Estate, cash in excess of \$2.4 million<sup>2</sup>, along  
18 with two residential real properties with an estimated aggregate net sale value of  
19 \$1 million. Furthermore, in the course of completing his analysis of the business  
20 and financial affairs of the Entities, the Receiver identified additional persons of  
21 interest who were subsequently added by the Regulators as defendants. Finally, the  
22 Receiver has preliminarily identified what appear to be fraudulent transfers of  
23 hundreds of thousands of dollars in Entity funds to third parties, including at least  
24 one current individual defendant, and persons affiliated with another. As of the date  
25 of submission of this Report, the Receiver is in the process of attempting to confirm  
26 the dates and amounts of the transfers, and making a determination as to whether  
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28 <sup>2</sup> As discussed below, this amount included proceeds from Court-approved sales of  
real properties.

1 commencing efforts to recover such transfers would yield a cost-effective benefit for  
2 the Estate.

3 **III. SUMMARY OF RECEIVER'S ACTIVITIES AND EFFORTS.**

4 Since the Receiver's appointment, he has undertaken a number of efforts  
5 aimed at, among other things, understanding the Entities and their interrelationships,  
6 their business and financial activities and operations, and – critically – the amounts  
7 and uses of funds raised by the Entities from consumers in the pre-receivership  
8 period, along with the amount of Assets available for recovery. The following  
9 reflects a summary of the Receiver's activities and efforts through the present, most  
10 importantly including those since the Receiver's Second Interim Report was  
11 submitted on March 22, 2023 (the "Reporting Period"):

12 **A. Investigation And Analysis Regarding The Operations Of The**  
13 **Receivership Entities.**

14 Building upon the work undertaken during prior reporting periods, the  
15 Receiver continued his investigation and analysis into the pre-receivership  
16 operations of the Receivership Entities. As discussed in greater detail in the  
17 Receiver's Second Interim Report, the Receivership Entities' pre-receivership  
18 operations were consistent with a fraudulent enterprise, and his investigative efforts  
19 during the Reporting Period largely related to further confirming this conclusion,  
20 refining his understanding of the fraud, and, as discussed in Section III.B, below,  
21 supplementing his accounting by incorporating a variety of newly obtained records  
22 into his analysis, including with respect to the amount and location of additional  
23 recoverable Assets.

24 Among the most noteworthy developments in the Receiver's investigative  
25 efforts during the Reporting Period, the Receiver identified and obtained access to  
26 downtown Los Angeles office space leased by the Receivership Entities for use in  
27 carrying out their operations. In a visit to these offices, the Receiver recovered  
28 assorted files and other materials related to the Entities operations, as well as several

1 desktop computers and cellular telephones. Subsequent examination of data  
 2 extracted from these devices<sup>3</sup> proved vital to the performance of the Receiver's  
 3 duties. Indeed, the materials recovered by the Receiver has yielded critical  
 4 information, including digital records of communications, information relating to  
 5 the transfer of Entity funds, and information relating to the roles played by Entity  
 6 personnel. This information has enabled the Receiver to identify the amounts and  
 7 timing of specific monetary transfers, the identities of some alleged victims, and the  
 8 location and value of certain recoverable Assets.

### 9 **B. Accounting For Entity Funds And Transactions.**

10 During the Reporting Period, the Receiver and his staff continued their  
 11 accounting efforts, reviewing bank statements and other materials obtained from  
 12 financial institutions used by the Receivership Entities and their principals to  
 13 identify and account for customer deposits/payments, and the Entities' use of those  
 14 funds. The Receiver and his staff continue to pursue additional information to be  
 15 incorporated into their accounting, including the information described in Section  
 16 III.A, above.

17 During the Reporting Period, the Receiver, informed by his ongoing analysis  
 18 of defendant Michael Nabati's financial records, concluded that Mr. Nabati had  
 19 purchased a potentially sizeable amount of cryptocurrency with funds diverted from  
 20 the Entities. The Receiver is in the process of working with the relevant  
 21 cryptocurrency exchange in order to determine whether Mr. Nabati continues to  
 22 hold Estate Assets on the exchange, and to obtain any other information that would  
 23 enable the Receiver to trace Estate funds that have, at any point, been converted into  
 24 cryptocurrency or other crypto assets, in the hopes of recovering such assets for the  
 25 benefit of the Estate. The Receiver has sent a turnover demand to the

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27 <sup>3</sup> To minimize costs to the Estate, the Receiver agreed to transfer the hard drives  
 28 and cell phones to the FTC for a forensic analysis and drive imaging. The  
 Receiver later received a copy of the data extracted by the FTC's forensics team.



1 cryptocurrency exchange, but, as of the date of this Report, has not received a  
 2 response. The Receiver also understands and believes that the Regulators have  
 3 separately contacted the cryptocurrency exchange. The Receiver is awaiting  
 4 additional information the funds held at the exchange, and will update the Court on  
 5 this matter in future submissions.

### 6 C. Asset Recovery.

#### 7 1. Existing Recoveries.

8 As of the date of this Report, the Receiver has recovered over \$2.4 million in  
 9 Receivership Assets for the benefit of the Estate, and currently holds approximately  
 10 \$2.18 million, after the payment of professional fees and expenses, and certain  
 11 miscellaneous costs, but before payment of administrative and professional fees and  
 12 expenses incurred after January 31, 2023. The Receiver has transferred the majority  
 13 of this balance to a high-yield savings account to generate interest during the  
 14 pendency of the receivership to maximize any recovery for creditors, including  
 15 allegedly defrauded mortgage modification scam victims. The bulk of these funds  
 16 are comprised of the net sales proceeds obtained from the sale of two real properties  
 17 owned by The Michael R. Nabati Irrevocable Living Trust dated December 23, 2020  
 18 (the "Trust"), and to which the Receiver had traced diverted Receivership Assets.

19 The following table summarizes the Receiver's cash recoveries:

<u>Source</u>	<u>Amount</u>
Bank Balance Turnovers	\$24,695.61
9002 Five Harbors Drive, Huntington Beach, California (Net Sales Proceeds)	\$425,477.62
21202 Spurney Lane, Huntington Beach, California (Net Sales Proceeds)	\$2,023,331.00
<b><u>TOTAL:</u></b>	\$2,473,504.23



1 The Receiver believes that additional recoveries may be obtained in  
2 connection with the assets and claims described in subsections 2 and 3, below:

3 2. Remaining Real Properties.

4 As noted in the Second Interim Report, the Trust remains the record owner of  
5 the real properties located at 109 Harbor Woods Place #109 and 203 Harbor Woods  
6 Place #203, Newport Beach California (the "Properties"), and against which the  
7 Receiver has established a claim for diverted funds. During the Reporting Period,  
8 the Receiver engaged in successful negotiations with Mr. Nabati regarding the  
9 surrender of the Properties to the Receiver, resulting in a joint stipulation approved  
10 by this Court's Order Approving Stipulation for Order: (1) Authorizing Receiver to  
11 Market and Sell Residential Real Properties; and (2) Releasing Defendant's Claim to  
12 Proceeds Recovered or Held by Receiver [Dkt. 195] [EFC No. 196]. Pursuant to the  
13 Court's order, the Receiver as empowered to market and sell the Properties, and to  
14 retain the resultant net proceeds for the benefit of the Estate, free and clear of any  
15 and all claims held by Mr. Nabati. Since the entry of the Court's order, the Receiver  
16 and his staff have taken efforts to address outstanding permitting and other issues  
17 associated with the Properties, prepared them for re-listing for sale, and presently  
18 anticipate that both of the Properties will be sold within the next 60 to 90 days,  
19 resulting in aggregate sales proceeds for the benefit of the Estate in the amount of  
20 approximately \$1 million.

21 3. Potentially Fraudulent Transfers.

22 As noted above, the information obtained and reviewed (or under review) by  
23 the Receiver as of the date of this Report suggests that, in addition to the diversions  
24 of funds previously documented by the Receiver in his Second Interim Report, at  
25 least several hundred thousand dollars in Entity funds may have been fraudulently  
26 transferred to third parties, including at least one individual defendant and persons  
27 affiliated with another individual defendant. At present, the Receiver is completing  
28 his review of records relevant to these suspected fraudulent transfers, and

1 determining whether he needs to seek the recovery of additional records, or whether  
2 the records already obtained are sufficient to make a recommendation regarding  
3 prospective civil prosecutions to the Court, and whether such prosecutions can be  
4 justified on a cost/benefit basis. The suspected transfers identified to date include:

5 (a) *Defendant Armando Solis Barron's La Habra Heights*  
6 *Property and an Associated \$500,000 Transfer.*

7 While defendant Armando Solis Barron has denied participating in the  
8 alleged fraud conducted through the Entities, he has admitted that on or around  
9 October 5, 2021, he received a transfer from Mr. Nabati in the amount of \$500,000<sup>4</sup>  
10 – which he previously argued should be the limit of his liability in this action<sup>5</sup> – and  
11 that he applied these funds to the acquisition of a real property located at 1500 La  
12 Riata Drive, La Habra Heights, California, 90631 (the "La Habra Property"). On  
13 July 24, 2023, the Regulators filed a Notice of Pendency of Action [ECF No. 226],  
14 as to the La Habra Property, which may be subject to turnover to the Receiver.  
15 Even if the La Habra Property itself is ultimately determined not to be a  
16 Receivership Asset, the \$500,000 he received through Mr. Nabati, and which  
17 appears to have been diverted from the Entities, may be recoverable as a fraudulent  
18 transfer.

19 (b) *Transfers to Additional Third Parties.*

20 In addition to the transfer which Mr. Solis Barron has admitted to receiving,  
21 the materials obtained by the Receiver strongly suggest that hundreds of thousands  
22 of dollars in additional funds were diverted from the Entities to non-parties affiliated  
23 with at least one other individual defendant in this action, which funds appear also  
24 to have been used in connection with the purchase of real property. At present, the  
25 Receiver is not prepared to disclose the identities of the suspected fraudulent  
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27 <sup>4</sup> Decl. of Armando Solis Baron in Supp. of Opp'n to Mot. for Summ. J. 5 [ECF  
No. 217-1].

28 <sup>5</sup> Def. Armando Solis Barron's [*sic*] Opp. to Pl's Mot. for Summ. J. 9 [ECF  
No. 216].

1 transferees in a public forum, absent further instruction from the Court. However,  
2 should the Receiver ultimately confirm the suspected transferees' receipt of Entity  
3 funds, he will identify the transferees and the associated transactions in connection  
4 with his recommendations to the Court regarding potential disgorgement litigation.

5 **D. Reestablishing Communications Between Alleged Scam Victims**  
6 **And Their Mortgage Lenders.**

7 While the vast majority of the Receiver's efforts have been tied to  
8 investigating, tracing, and accounting for the cash proceeds of the alleged fraud, he  
9 has also sought to enable apparent victims of the alleged mortgage scam to mitigate  
10 their injuries. Among other things, after confirming that what limited  
11 communications the Entities transmitted to consumer lenders contained  
12 representations to the effect that lenders should communicate exclusively with the  
13 Entities<sup>6</sup> – not the borrowers – the Receiver sought to reestablish direct  
14 communications between any borrowers still seeking mortgage modifications and  
15 their respective lenders. To that end, during the Reporting Period, the Receiver  
16 contacted all mortgage lenders and services whom his records suggested had  
17 previously been contacted by the Entities, informing them of the pending  
18 receivership and the fraudulent scheme alleged by the Regulators, and encouraging  
19 these lenders and servicers to reestablish direct communications with their  
20 borrowers to, among other things, engage in loan modification negotiations where  
21 possible. The Receiver also provided copies of relevant pleadings and other records  
22 to known Entity consumers. While this undertaking will not result in any direct  
23 cash recovery for the Estate, the commencement or recommencement of loan  
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25 <sup>6</sup> Indeed, the Receiver has recovered from the offices of the Receivership Entities  
26 loan modification letters that the Entities received from lenders, directed to the  
27 Entities' customers, but addressed to the Entities themselves. Such letters appear  
28 not to have been acted upon, nor forwarded to borrowers. In other words, the  
Receivership Entities provided little, if any, actual loan modification services in  
exchange for their fees, and worse, actively hindered their consumers' efforts to  
obtain loan modification from their respective lenders.

1 modification negotiations could ultimately prove to be of substantial benefit to  
2 alleged consumer victims by mitigating future harm (financial or otherwise) to those  
3 consumers who may still be failing to make mortgage payments in reliance on the  
4 Entities' promises that a modification had been approved. As of the date of this  
5 Report, the Receiver and his counsel have already fielded numerous inquiries from  
6 lenders, servicers, and borrowers. Anecdotally, these inquiries appear to relate to  
7 renewed loan modification negotiations, which may help mitigate some of the more  
8 pernicious effects of the Entities' malign activities.

9 **E. Preliminary Development Of Prospective Claims Process Or**  
10 **Restitution Fund.**

11 As noted above, to date the Receiver has successfully recovered nearly  
12 \$2.5 million for the benefit of the Estate, and he expects that his continued efforts  
13 will yield at least another \$1 million from the anticipated sale of the Properties.  
14 After payment of administrative fees and expenses, the funds held by the Receiver  
15 could be used to compensate victims of the alleged mortgage scam, either directly  
16 by the Receiver via a Court-administered claims and distribution process, or by  
17 transferring the Receiver's net recovery to the Regulators or otherwise establishing a  
18 restitution fund. The Receiver is presently evaluating the costs and benefits  
19 associated with potential claims and distribution scenarios, and anticipates providing  
20 the Court with a recommendation, after discussion with the Regulators, in his next  
21 interim report, assuming the Court authorizes the continued existence of the  
22 receivership as recommended below.

23 **IV. RECEIVER'S RECOMMENDATIONS AND PETITION FOR**  
24 **INSTRUCTIONS.**

25 As noted above, the Receiver has made significant process satisfying his  
26 obligations under the Appointment Order, and has already collected nearly  
27 \$2.5 million for the benefit of the Estate and its creditors, to say nothing of an  
28 additional anticipated recovery of approximately \$1 million from the sales of the

1 remaining Properties, and any prospective recoveries of funds unlawfully diverted  
2 from the Entities. Of course, work remains to be done in connection with the  
3 anticipated sales of the Properties and the Receiver's investigation and  
4 recommendations regarding potential fraudulent transfer or disgorgement claims.  
5 Accordingly, the Receiver believes, in his reasonable business judgment, that there  
6 is good cause for maintaining the present receivership for at least another 120 days,  
7 during which time the Receiver intends to:

- 8       • Complete the sale of the Properties;
- 9       • Continue to negotiate with relevant parties to determine whether an  
10       agreement can be reached with respect to turnover or sale of Assets  
11       against which the Estate has a claim;
- 12       • Continue to supplement his investigation and analysis of the Estate's  
13       prospective claims arising from pre-receivership diversions of Entity  
14       funds;
- 15       • Coordinate with the Regulators to determine the most cost-effective  
16       manner for making funds available to compensate alleged consumer  
17       victims; and
- 18       • Prepare, at least, an additional interim report to the Court setting forth  
19       the results of the above efforts. In the event the Receiver determines  
20       that the prosecution of fraudulent transfer claims is justifiable on a  
21       cost/benefit basis, he may also file a supplemental report or motion  
22       seeking specific litigation and settlement authority from the Court.

23       While the Receiver is sensitive to the cost and delay associated with  
24 continuing the instant receivership, he anticipates that the completion of the above  
25 work is in the best interest of the Estate, as evidenced by the results to date, and  
26 because his efforts are likely to result in at least an additional \$1 million in  
27 recoveries for the benefit of the Estate and its creditors, including alleged consumer  
28 victims.

1 **V. CONCLUSION.**

2 Based on the information presented herein, and given the Receiver's ongoing  
3 efforts in connection with his duties under the Appointment Order, the Receiver  
4 recommends that the Court authorize the Receiver to continue to perform his duties  
5 as established under the Appointment Order, and to submit a Fourth Interim Report  
6 and Petition for Instructions (or Final Report and Accounting) approximately 120  
7 days after the submission of this Report, to address any progress made and  
8 conclusions reached by the Receiver, and to present any additional  
9 recommendations to the Court.

10

11 Dated: August 17, 2023

ALLEN MATKINS LECK GAMBLE  
MALLORY & NATSIS LLP  
DAVID R. ZARO  
JOSHUA A. DEL CASTILLO  
MATTHEW D. PHAM

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By: /s/ Joshua A. del Castillo  
JOSHUA A. DEL CASTILLO  
Attorneys for Receiver  
DAVID P. STAPLETON

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